

Journal of the House

Tuesday, March 24, 2015

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by the Speaker.

Pledge of Allegiance

Page Hannah Fleming of Chester led the House in the Pledge of Allegiance.

Message from the Senate No. 32

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bills of the following titles:

S. 66. An act relating to persons who are deaf, DeafBlind, or hard of hearing.

S. 122. An act relating to miscellaneous changes to laws related to motor vehicles, motorboats, and other vehicles.

In the passage of which the concurrence of the House is requested.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 68. House concurrent resolution congratulating the 2014 South Burlington High School Division I girls' and boys' championship tennis teams.

H.C.R. 69. House concurrent resolution congratulating the 2015 Essex Union High School Hornets Division I girls' ice hockey championship team.

H.C.R. 70. House concurrent resolution congratulating the 2015 and 10th consecutive Essex Union High School Hornets' girls' gymnastics State championship team.

H.C.R. 71. House concurrent resolution honoring Nancy Zorn for her 15 years of outstanding leadership as Executive Director of the Green Mountain United Way.

H.C.R. 72. House concurrent resolution congratulating University of Vermont women's ice hockey Catamount Amanda Pelkey on scoring her 100th college career point.

H.C.R. 73. House concurrent resolution designating March 17, 2015 as Multiple Sclerosis Awareness Day in Vermont.

H.C.R. 74. House concurrent resolution congratulating Abigail Hawkins on her winning first place in the oratory category at the 2015 Vermont Debate and Forensics League State championship.

H.C.R. 75. House concurrent resolution honoring the humanitarian efforts of the Vermont Haiti Project and recognizing its social and cultural contributions to the State of Vermont.

H.C.R. 76. House concurrent resolution recognizing important legal milestones in the protection of the rights of persons with disabilities and designating March 18, 2015 as Disability Awareness Day at the State House.

H.C.R. 77. House concurrent resolution welcoming the Friends of UVM Baseball to the State House.

H.C.R. 78. House concurrent resolution designating August 9, 2015, as Genealogy Day in Vermont.

H.C.R. 79. House concurrent resolution congratulating the 2014 South Burlington High School Rebels Division I boys' cross-country championship team.

H.C.R. 80. House concurrent resolution congratulating the 2014 Williston All-Stars Little League baseball state championship baseball team.

House Bills Introduced

House bills of the following titles were severally introduced, read the first time and under the rule, placed on the Calendar for notice.

H. 489

By the committee on Ways & Means,

An act relating to revenue;

H. 490

By the committee on Appropriations,

An act relating to making appropriations for the support of government.

Senate Bills Referred

Senate bills of the following titles were severally taken up, read the first time and referred as follows:

S. 66

Senate bill, entitled

An act relating to persons who are deaf, DeafBlind, or hard of hearing;

To the committee on Human Services.

S. 122

Senate bill, entitled

An act relating to miscellaneous changes to laws related to motor vehicles, motorboats, and other vehicles;

To the committee on Transportation.

Joint Resolution Referred to Committee**J.R.H. 11**

Joint resolution relating to the Vermont presidential primary

Offered by: Representatives Deen of Westminster and Mrowicki of Putney

Whereas, pursuant to State law, Vermont's presidential primary is held on the first Tuesday of March, and

Whereas, given both the date of the presidential primary, and the small number of delegates Vermont sends to the national political conventions, it attracts minimal national attention, and

Whereas, New Hampshire state law provides that its presidential primary will take place at least seven days before any other state's, and

Whereas, although the size of New Hampshire's national political convention delegations are only slightly larger than Vermont's, the Granite State derives far greater revenue and national publicity from its first-in-the-nation presidential primary, and

Whereas, in the months leading to primary day, presidential candidates are frequently present in the Granite State, and large numbers of out-of-state campaign staff and volunteers descend on New Hampshire; rent rooms, cars, and office space; and purchase food, gasoline, and many other items as does the large media contingent that accompanies the campaigns, and

Whereas, the extensive national and international media coverage places New Hampshire on the country's, and to a considerable degree, the world's center stage, and

Whereas, national broadcast and cable news programs originate from New Hampshire, offering not only political coverage, but also presenting tourist-enticing feature stories, and

Whereas, in light of the revenue generation, economic development, and tourist promotion potential of Vermont holding its presidential primary on the same date as New Hampshire's, when the candidates' campaign staff and the national media are already nearby, it is worthwhile for Vermont to examine this idea, and

Whereas, however, changing the date of the State's presidential primary does raise important fiscal, legal, and logistical issues, requiring careful examination, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly requests the Elections Division of the Office of the Secretary of State to submit a report to the House and Senate Committees on Government Operations, on or before December 15, 2015, on the fiscal, legal, and logistical issues related to Vermont's holding its presidential primary on the same day as New Hampshire's, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Elections Division of his office.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the committee on Government Operations.

House Resolution Placed on Calendar

H.R. 7

House resolution, entitled

House resolution reaffirming the friendly bilateral relationships between Taiwan and both the United States and Vermont and the important role of Taiwan in the international community

Offered by: Representatives Ancel of Calais, Botzow of Pownal, Marcotte of Coventry, and Young of Glover

Whereas, the United States and the Republic of China (Taiwan) share a most important relationship supported by our common values of freedom, democracy, rule of law, a free market economy, and

Whereas, President Ma Ying-jeou has worked tirelessly to uphold democratic principles in Taiwan, ensure the prosperity of Taiwan's 23 million people, promote Taiwan's international standing, and further improve relations between the United States and Taiwan, and

Whereas, Taiwan and the United States share the common goal of peace in the East China Sea, and Taiwan proposed an East China Sea Peace Initiative on August 5, 2012, urging all parties concerned to exercise restraint, avoid actions that could escalate confrontation in the region, shelve disputes, not abandon dialogue, and observe international law to resolve disputes in a peaceful manner, and

Whereas, the United States and Taiwan, and especially Vermont, share a historically close relationship, marked by strong bilateral trade, educational and cultural exchange, scientific and technological interests, and tourism, and

Whereas, Taiwan has been a member of the U.S. Visa Waiver Program since November 1, 2012, reflecting the friendship, trust, and cooperation shared between our two countries, and making travel between Taiwan and the U.S. for business and tourism even more convenient, and

Whereas, the United States ranks as Taiwan's third largest trading partner, and Taiwan is the 10th largest trading partner of the United States, with bilateral trade in goods and services from January to November 2014 amounting to \$61.8 billion. New England exported more than \$1 billion in goods to Taiwan of which Vermont's share was \$116 million, making Taiwan Vermont's eighth largest export market, mostly in computer and electronic products, chemicals, and electrical equipment, and

Whereas, Taiwan has attended the International Civil Aviation Organization (ICAO) Assembly as a special guest since 2013, and it remains in the interest of the traveling public that Taiwan be included in the ICAO because Taiwan is a key transport hub in the Asia-Pacific region and the Taipei Flight Information Region under Taiwan's jurisdiction covers an area of 176,000 square nautical miles with 1.35 million controlled flights with over 40 million travelers passing through annually, and Taiwan reiterates its commitment to ICAO standards and seeks to expand its meaningful participation in the ICAO, including attending technical and regional meetings and related activities, and

Whereas, the United Nations Framework Convention on Climate Change (UNFCCC) is the world's key instrument to deal with climate change and a concerted global effort to combat the challenges posed by climate change requires that Taiwan also be included in the work of the UNFCCC, and Taiwan has expressed a keen interest to participate in the global effort to address climate change; now therefore be it

Resolved by the House of Representatives:

That this legislative body reaffirms the friendship between Vermont and Taiwan, commends Taiwan's role as peacemaker in the East China Sea, supports efforts to further strengthen U.S./Vermont-Taiwan trade relations, and supports Taiwan's participation in international organizations and regional economic integration, and be it further

Resolved: That the Clerk of the House be directed to send copies of this resolution to President Barack Obama, the Vermont Congressional Delegation, Governor Peter Shumlin, President Ma Ying-jeou of Taiwan, and Scott Lai, Director-General of the Taipei Economic and Cultural Office in Boston.

Which was read and, in the Speaker's discretion, placed on the Calendar for action tomorrow under Rule 52.

Third Reading; Bills Passed

House bills of the following titles were severally taken up, read the third time and passed:

H. 363

House bill, entitled

An act relating to the Petroleum Cleanup Fund

H. 480

House bill, entitled

An act relating to making miscellaneous technical and other amendments to education laws

Bill Amended; Third Reading Ordered

H. 282

Rep. Evans of Essex, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to professions and occupations regulated by the Office of Professional Regulation

Reported in favor of its passage when amended as follows:

First: In Sec. 3, 3 V.S.A. § 129 (powers of boards; discipline process), in subdivision (f)(2), in the last sentence, following "of this title regarding", by striking out "proposal" and inserting in lieu thereof "proposals"

Second: In Sec. 7, 26 V.S.A. chapter 28, subchapter 1 (registered and licensed practical nursing), by striking out in its entirety 26 V.S.A. § 1575a (criminal background checks)

Third: In Sec. 28, in 26 V.S.A. § 2804 (competency requirements of certain licensed practitioners), by striking out in its entirety subsection (d) and inserting in lieu thereof the following:

(d) This section does not apply to radiologists who are certified or eligible for certification by the American Board of Radiology, nuclear cardiologists who are certified or eligible for certification by the Certification Board of Nuclear Cardiology, or interventional cardiologists and electrophysiologists who are certified or eligible for certification by the American Board of Internal Medicine.

Fourth: By adding a new section to be Sec. 32a to read:

Sec. 32a. OFFICE OF PROFESSIONAL REGULATION REPORT; USE OF THE TERM “SOCIAL WORKER”

(a) Representatives of the Office of Professional Regulation, the Department for Children and Families, and other appropriate State agencies shall meet and consult with the Vermont chapter of the National Association of Social Workers to address the use of the term “social worker” within the Department for Children and Families and other State agencies.

(b) On or before December 1, 2015, the Director of the Office of Professional Regulation shall report to the House and Senate Committees on Government Operations regarding the outcome of the meeting or meetings and any recommendations for the permitted use of the term “social worker.”

Fifth: By striking out in its entirety Sec. 39 (amending 26 V.S.A. chapter 87 (speech-language pathologists and audiologists)) and inserting in lieu thereof a new Sec. 39 to read:

Sec. 39. 26 V.S.A. chapter 87 is amended to read:

CHAPTER 87. SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

§ 4451. DEFINITIONS

As used in this chapter:

(1) ~~“Audiologist” means a person licensed to practice audiology under this chapter.~~

(2) ~~“Audiology” means the application of principles, methods, and procedures related to hearing and the disorders of hearing, and to related~~

~~language and speech disorders, which includes all conditions that impede the normal process of human communication, including disorders of auditory sensitivity, acuity, function, or processing.~~

~~(3) “Board” means the Vermont Standards Board for Professional Educators unless the context clearly requires otherwise.~~

~~(4) “Agency” means the Agency of Education.~~

~~(5) “Director” means the Director of the Office of Professional Regulation.~~

~~(6)(2) “Disciplinary action” means any action taken by the administrative law officer appointed pursuant to 3 V.S.A. § 129(j) against a licensee or applicant for licensure under this chapter, premised on a finding that the person has engaged in unprofessional conduct. “Disciplinary action” includes all sanctions of any kind, including obtaining injunctions, refusal to give an examination, refusal to grant or renew a license, suspension or revocation of a license, placement of limitations or restrictions upon a license, issuance of warnings, ordering restitution, and other similar sanctions.~~

~~(7) “Hearing aid” means an amplifying device to be worn by a person who is hard of hearing to improve hearing, including any accessories specifically used in connection with such a device, but excluding theater or auditorium wide area listening devices, telephone amplifiers, or other devices designed to replace a hearing aid for restricted situations.~~

~~(8) “Practice of audiology” includes:~~

~~(A) facilitating the conservation of auditory system function, and developing and implementing environmental and occupational hearing conservation programs;~~

~~(B) screening, identifying, assessing and interpreting, diagnosing, preventing, and rehabilitating peripheral and central auditory system dysfunctions;~~

~~(C) providing and interpreting behavioral and electro-physiological measurements of auditory, vestibular, and facial nerve functions;~~

~~(D) selecting, fitting, and dispensing of hearing aids, amplification, assistive listening and alerting devices, implantable devices, and other systems, and providing training in their use;~~

~~(E) dispensing hearing aids, including conducting and interpreting hearing tests for the purpose of selecting suitable hearing aids;~~

~~(F) making ear molds or impressions;~~

~~(G) providing instruction to patients on the care and use of hearing aids, auditory system functions, and hearing conservation;~~

~~(H) all acts pertaining to selling, renting, leasing, pricing, delivering, and giving warranties for hearing aids;~~

~~(I) providing aural rehabilitation and related counseling services to individuals who are hard of hearing and their families;~~

~~(J) screening of speech language and other factors affecting communication function for the purposes of an audiologic evaluation, or initial identification of individuals with other communication disorders; and~~

~~(K) management of cerumen.~~

(3) “Office” means the Office of Professional Regulation.

(9)(4) “The practice “Practice of speech-language pathology” includes:

(A) screening, identifying, assessing and interpreting, diagnosing, rehabilitating, treating, and preventing disorders of language and speech, including disorders involving articulation, fluency, and voice;

* * *

(E) providing aural rehabilitation, speech-language, and related counseling services to individuals who are hard of hearing or experiencing auditory processing problems and their families;

(F) enhancing speech-language proficiency and communication effectiveness, including accent ~~reduction~~ modification; and

* * *

~~(10) “Private practice” means any work performed by a licensed speech-language pathologist or audiologist that is not within the jurisdiction of the Board.~~

~~(11)~~(5) “Secretary” means the Secretary of State.

~~(12)~~(6) “Speech-language pathologist” means a person licensed to practice speech-language pathology under this chapter.

~~(13)~~(7) “Speech-language pathology” means the application of principles, methods, and procedures related to the development and disorders of human communication, which include any and all conditions that impede the normal process of human communication.

~~(14) “Within the jurisdiction of the Board” means conduct or work performed by a licensed speech language pathologist or audiologist on behalf~~

~~of a supervisory union or public school district in Vermont or an independent school approved for special education purposes, or conduct otherwise subject to discipline under the licensing rules of the Board.~~

§ 4452. PROHIBITIONS; PENALTIES

(a) ~~No~~ A person shall not:

(1) practice or attempt to practice ~~audiology or~~ speech-language pathology or hold oneself out as being permitted to do so in this ~~state~~ State unless the person is licensed in accordance with this chapter;

(2) use in connection with the person's name, an insignia or any letters or words ~~which~~ that indicate the person is ~~an audiologist or~~ a speech-language pathologist unless the person is licensed in accordance with this chapter; or

(3) practice ~~audiology or~~ speech-language pathology after the person's license under this chapter has been suspended or revoked.

(b) A person who violates a provision of this section or who obtains a license by fraud or misrepresentation shall be subject to the pertinent penalties provided in ~~3 V.S.A. § 127(e)~~ 3 V.S.A. § 127.

§ 4453. EXEMPTIONS

The provisions of section 4452 of this ~~title~~ chapter shall not apply to ~~the following persons:~~

~~(1) A~~ a person enrolled in a course of study leading to a degree or certificate in ~~audiology or~~ speech-language pathology at a school accredited by the American Speech-Language Hearing Association, provided:

~~(A)~~(1) the activities and services performed constitute part of a supervised course of study;

~~(B)~~(2) the person is designated by a title which clearly indicates the person's student or trainee status; and

~~(C)~~(3) the person is under the direct supervision of ~~an audiologist or~~ a speech-language pathologist licensed in this ~~state~~ State.

~~(2) A hearing aid dispenser performing services within the scope of a license under chapter 67 of this title.~~

§ 4454. CONSTRUCTION

~~(a)~~ This chapter shall not be construed to limit or restrict in any way the right of a practitioner of another occupation ~~which~~ that is regulated by this ~~state~~ State from performing services within the scope of his or her professional practice.

~~(b) This chapter shall not be construed to limit the authority of the board to determine and evaluate the qualifications of, issue licenses to, or discipline licensees who are within the jurisdiction of the board.~~

§ 4455. ADVISOR APPOINTEES

(a) The Secretary, ~~in consultation with the Secretary of Education,~~ shall appoint two individuals to serve as advisors in matters related to ~~audiology and speech-language pathology.~~ ~~One advisor~~ Both advisors shall be a licensed speech-language pathologist, and ~~one advisor shall be an audiologist.~~ pathologists, shall have not less than three years' experience as ~~audiologists or speech-language pathologists~~ immediately preceding appointment, and shall be actively engaged in the practice of ~~audiology or speech-language pathology~~ in Vermont during incumbency. ~~The advisors shall be appointed for staggered terms of three years, and shall serve at the pleasure of the Secretary. One of the initial appointments may be for less than a three year term.~~

(b) The Secretary Director shall seek the advice of the individuals appointed under this section in ~~matters related to qualifications or alleged misconduct not within the jurisdiction of the Board~~ carrying out the provisions of this chapter. The advisors shall be entitled to compensation and necessary expenses as provided in 32 V.S.A. § 1010 for meetings called by the Director.

~~(c) The Secretary may seek the advice of other audiologists and speech language pathologists licensed under this chapter.~~

§ 4456. SECRETARY OF EDUCATION; DIRECTOR DUTIES

(a) The ~~Secretary of Education~~ Director shall administer the application and renewal process for all licensees under this chapter, and shall:

* * *

(5) receive applications for licensure, grant licensure under this chapter, renew licenses, and deny, revoke, suspend, reinstate, or condition licenses as directed by ~~the~~ an administrative law officer;

~~(6) refer all complaints and disciplinary matters not within the jurisdiction of the Board to the Secretary of State;~~

~~(7)~~ with the advice of the advisor appointees, adopt rules necessary to implement the provisions of this chapter;

~~(8)~~(7) prepare and maintain a registry of licensed speech-language pathologists ~~and audiologists;~~ and

~~(9)~~(8) issue to each person licensed a certificate of licensure ~~which that~~ shall be prima facie evidence of the right of the person to whom it is issued to practice as a licensed ~~audiologist or~~ speech-language pathologist, subject to the conditions and limitations of this chapter.

~~(b) The Agency may contract with the Secretary of State for provision of adjudicative services of one or more administrative law officers and other investigative, legal, and administrative services related to licensure and discipline of speech language pathologists and audiologists. [Repealed.]~~

§ 4457. LICENSURE; APPLICATIONS; ELIGIBILITY

~~Applicants~~ An applicant for ~~licenses~~ licensure under this chapter shall submit an application to the ~~department~~ Office on a form furnished by the ~~department~~ Office, along with payment of the specified fee and evidence of the eligibility qualifications established by the ~~board which~~ Director that shall include, at a minimum:

(1) ~~A~~ a master's degree or equivalent in ~~audiology or~~ speech-language pathology from an educational institution approved by the ~~department~~ Director with course work completed in areas specified by rule;

(2) ~~Completion~~ completion of a supervised clinical practicum, the length and content of which shall be established by rule;

(3) ~~Completion~~ completion of a period, as determined by rule, of postgraduate professional training as approved by the ~~department~~ Director; and

(4) ~~Passing~~ passing an examination in ~~audiology or~~ speech-language pathology approved by the ~~department, which, in the case of the audiology examination, shall include a section which is equivalent to the hearing aid dispensers examination described in section 3295 of this title. Audiologists who have passed an examination chosen by the department are not required to take the hearing aid dispensers examination required by section 3295~~ Director.

§ 4458. RENEWALS; CONTINUING EDUCATION

~~(a) A license shall be renewed at an interval determined by the board which shall be no fewer than every two years and no more than every seven years on a schedule set by the Director upon payment of the renewal fee, provided the person applying for renewal completes professional development activities in accord with the processes approved by the department or the board, during the interval~~ Director. The ~~board~~ Director shall establish, by rule, guidelines and criteria for the renewal or reinstatement of licenses issued under this chapter.

~~(b) At the time interval required for renewal, the department shall forward a renewal form to each licensee. Upon receipt of the completed application and the renewal fee, the department shall issue a new license.~~

§ 4459. FEES

(a) Each applicant and licensee shall ~~be subject to~~ pay the following fees:

- ~~(1) Initial processing of application~~ \$35.00
- ~~(2) Issuance of initial license~~ \$35.00 per year for
the term of the license
- ~~(3) Renewal of license~~ \$35.00 per year for
the term of the renewal
- ~~(4) Replacement of license~~ \$10.00
- ~~(5) Duplicate license~~ \$3.00

~~(b) Fees collected under this section shall be credited to special funds established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and shall be available to the department to offset the costs of providing those services set forth in 3 V.S.A. § 125.~~

* * *

§ 4464. UNPROFESSIONAL CONDUCT

(a) A licensee or applicant shall not engage in unprofessional conduct.

(b) Unprofessional conduct means the following conduct and the conduct set forth in 3 V.S.A. § 129a:

(1) Willfully making or filing false reports or records in the practice of ~~audiology, dispensing hearing aids or~~ speech-language pathology, willfully impeding or obstructing the proper making or filing of reports or records, or willfully failing to file the proper report or record;

* * *

(4) Advertising or making a representation ~~which~~ that is intended or has a tendency to deceive the public, including:

(A) advertising a particular type of service, or equipment, ~~or hearing aid~~ when the particular service, or equipment, ~~or hearing aid~~ is not available;

(B) ~~stating or implying that the use of a hearing aid will retard the progression of a hearing impairment;~~

~~(C)~~ advertising or making any statement related to the practice of speech-language pathology ~~or audiology which~~ that is intended to or tends to deceive or mislead the public;

~~(D)~~(C) using or promoting or causing the use of any misleading, deceiving, improbable, or untruthful advertising matter, promotional literature, testimonial guarantee, ~~warranty, label, brand, insignia,~~ or any other representation;

* * *

(6) Willfully failing to honor any representation, promise, or agreement, ~~or warranty~~ to a client or consumer;

(7) Professional negligence or malpractice;

(8) Any of the following, except when reasonably undertaken in an emergency situation in order to protect life or health:

(A) practicing or offering to practice beyond the scope permitted by law;

(B) accepting and performing professional or occupational responsibilities ~~which~~ that the licensee knows or has reason to know the licensee is not competent to perform; or

(C) performing professional or occupational services ~~which~~ that have not been authorized by the consumer or his or her legal representative;

* * *

(12) Conviction of a crime related to the practice of ~~audiology or~~ speech-language pathology or conviction of a felony, whether or not related to the practice of the profession;

~~(13) Discouraging clients or consumers in any way from exercising their right to a refund within a 45-day trial period, unreasonably delaying payment of such refunds as may be due, or deducting amounts from refunds beyond those allowed by law; [Repealed.]~~

~~(14) Failing to inform a consumer prior to sale of a hearing aid that a medical evaluation of hearing loss prior to purchasing a hearing aid is in the consumer's best health interest; [Repealed.]~~

(15) Engaging in fraud in connection with any ~~state~~ State or ~~federally-assisted~~ federally assisted medical assistance programs; or

(16) Violating any part of the Code of Ethics of the American Speech-Language-Hearing Association.

Rep. Branagan of Georgia, for the committee on Way and Means, recommended that the bill ought to pass when amended as recommended by the committee on Government Operations.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committees on Government Operations and Ways and Means agreed to and third reading ordered.

Favorable Report; Third Reading Ordered

H. 268

Rep. Lewis of Berlin, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to approval of the adoption and the codification of the charter of the Town of Franklin and of the merger of Franklin Fire District No. 1 into the Town

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Adjournment

At ten o'clock and fifty-six minutes in the forenoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.